



**TSA MANAGEMENT DIRECTIVE No. 1100. 63-2
FURLOUGH (AGENCY PLACEMENT OF EMPLOYEES
IN NONPAY, NONDUTY STATUS)**

To enhance mission performance, TSA is committed to promoting a culture founded on its values of Integrity, Innovation and Team Spirit.

NOTE: Pursuant to Section 101 of the Aviation and Transportation Security Act (49 U.S.C. 114(n)), this directive establishes TSA policy and supersedes the Federal Aviation Administration (FAA) orders, policies, guidance, and bulletins regarding furlough issued under the FAA Personnel Management System. This directive is TSA policy and must be applied accordingly.

REVISION: This revised directive supersedes TSA MD 1100.63-2, *Furlough (Agency Placement of Employees in Nonpay, Nonduty Status)*, dated May 12, 2006.

SUMMARY OF CHANGES: Section 3, Authorities, was changed to reflect the current citation for Pub.L. 107-71; all sections were revised to improve format and readability, reflect more recent policy issuances and provide clarifications (for example, specifying the authority level for decision to use furlough, and clarifying that differences between furlough and requesting other forms of paid leave or leave without pay should be considered, especially with regard to unemployment benefits, and adding provisions for appeal rights). The requirements for OHC and OCC review of all furlough letters prior to issuance were relaxed. Attachments 1, 2 and 3 have been removed and can now be found in the accompanying handbook.

- 1. PURPOSE:** This directive provides TSA policy and procedures for the agency's placement of employees on furlough.
- 2. SCOPE:** This directive applies to all TSA organizational elements and all TSA employees.
- 3. AUTHORITIES:** The Aviation and Transportation Security Act, Public Law 107-71 (ATSA)
- 4. DEFINITIONS:**
 - A. Furlough: An involuntary, agency-mandated temporary placement of employees into a nonpay, nonduty status for reasons unrelated to performance or conduct. The most common reasons for a furlough are a lack of work or a lack of funds. Agencies may furlough employees unilaterally without their consent. The employee must be provided advance written notice that they will be placed in furlough status.
 - B. Leave Without Pay (LWOP): A temporary, approved absence from duty in a nonpay status that may be granted at the employee's request.
 - C. Reassignment: A change to a position at the same pay band, same work schedule type (Part-Time or Full-Time) and with no greater pay band opportunity than the pay band opportunity of the previous position.
 - D. TSA Management Officials: The Assistant Secretary, Deputy Assistant Secretary, Assistant Administrators, Area Directors, Federal Security Directors, Special Agents in Charge, or their designees.

5. RESPONSIBILITIES:

A. TSA Management Officials are responsible for:

- (1) determining whether a furlough is necessary, which positions/employees will be impacted, and when/for how long the furlough will be in effect based on knowledge of work, mission needs, and available funding;
- (2) obtaining approval of and issuing appropriate notifications to employees concerning furloughs in accordance with this directive;
- (3) monitoring the status of furloughs to ensure that time limitations are not exceeded; and
- (4) ensuring that their employees are properly advised and counseled regarding benefits and other information related to a furlough.

B. Office of Human Capital (OHC) is responsible for:

- (1) advising TSA managers faced with potential furlough situations, to include helping managers explore options that may avoid or minimize the need to furlough;
- (2) in conjunction with the Office of Chief Counsel, reviewing any proposed furlough notices which vary from the templates provided before they are issued by TSA Management Officials; and
- (3) ensuring that furlough actions, including benefits-related actions, are properly processed.

C. The Office of Chief Counsel (OCC), in conjunction with OHC is responsible for reviewing proposed employee furlough notices which vary from the templates provided before they are issued by TSA Management Officials.

6. POLICY:

- A. TSA may exercise discretion in determining whether or not a furlough is necessary, which employees must be furloughed, when, and for how long based on knowledge of work, mission needs, and/or available funding. The decision to authorize use of furlough may be made by an official at or above the level of Assistant Administrator, or his/her designee. TSA is not required to use workforce reduction procedures or any other specific factor(s) (e.g., seniority) to determine which employees will be furloughed.**
- B. TSA Management Officials should strive to distribute the adverse effects of a furlough as fairly as possible across affected staff if the need for furlough is based on conditions that affect all positions equally (i.e. reduced funding for the entire organization). For example, if the organization faces a temporary 20% funding shortfall, all full-time (FT) employees could be furloughed for eight hours per week, and part-time (PT) employees furloughed on a pro-rated basis (i.e., those with an official work schedule of 20 hours per week would be furloughed for four hours per week).**

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- C. TSA Management Officials may use their judgment to furlough only those employees whose jobs are actually or potentially affected if the conditions prompting the furlough affect certain positions but not others (i.e., there is a temporary lack of work in Training but not in Human Capital, or a reduction in administrative work but not screening work).
- D. Furlough decisions will not be based on an employee's race, color, national origin, religion, age, gender, disability, sexual orientation, parental status, or genetic information.

7. PROCEDURES:

- A. Furlough Avoidance and Pre-Planning: Before making a decision to furlough employees, managers should refer to the guidance in [TSA Handbook to MD 1100.63-2, *Furlough \(Agency Placement of Employees in Nonpay, Nonduty Status\)*](#), as there may be ways to avoid or minimize the need for furlough. Because of the potential impact of furlough actions on employees, furloughs are not intended for use in situations of short duration (e.g., a 2-day emergency office closure; or PT employees needed for fewer hours than called for in their official (documented) work schedule for one pay period). Such actions should be addressed through coordination with the servicing Human Resources specialist to determine the appropriate action.
- B. Type and Length of Furlough: A furlough may be implemented for a continuous (consecutive days) or discontinuous (non-consecutive days) period(s).
 - (1) Continuous furloughs affect employees in identified positions for all time they would normally work over a specific, consecutive period of hours, days, weeks or months. Example: If the office will have a lack of work or funds for three weeks, all FT employees could be furloughed for 40 hours per week for three weeks, with PT employees furloughed on a pro-rated basis (i.e., those with an official work schedule of 20 hours per week would be furloughed for 20 hours per week for three weeks).
 - (2) Discontinuous furloughs affect employees in identified positions for specified number of hours, days, weeks or months in a defined period, interspersed with periods of paid work time. Managers may recommend discontinuous furlough options/patterns that make it possible to make scheduling adjustments that will have less impact on overall staffing coverage. Example: To meet a reduction requirement of 120 hours total for each FT employee, the office could place all FT employees on furlough for five hours on each Monday and Thursday for a three month period with PT employees furloughed an equivalent amount on a pro-rated basis.
 - (3) Furloughs will be implemented in increments limited to a maximum of six months each.

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- C. Notification Requirements: Advance written notice of furlough will normally be issued to affected employees no less than seven calendar days before the proposed furlough start date. Additional notice will be provided whenever possible. In unforeseen emergency situations (e.g., an immediate and unexpected loss of agency funding, or an unannounced airline strike), the agency may issue furlough notices and place employees in furlough status during the notice period, but such situations should be very rare.
- (1) The notice should identify a projected date or event that is expected to trigger an end to the furlough period.
 - (2) Furlough notices will be issued for a single event expected to last up to a maximum of six months. If the furlough situation extends beyond six months, a new furlough notice must be issued prior to the end of the initial six month period. Regardless of the time period involved, once the initial furlough is terminated and employees are returned to work, any future event that creates the need for another furlough will require issuance of a new notice to affected employees.
 - (3) The furlough notice should also explain other options employees may have, if applicable. For example: Options to request details if work is available in other locations, requesting use of appropriate accrued paid leave for all or part of the period rather than be furloughed.
 - (4) Template letters appropriate for use in developing a Notice of Furlough are included in the TSA Handbook on Furlough. Managers should use these templates to draft furlough letters. Letters which include variations from the template language should not be issued to employees without prior review/approval of the appropriate program official(s), OHC, and OCC.
- D. Options: Employees should be provided with the maximum number of options available to them given the circumstances.
- (1) Employees should be allowed to volunteer for details if work is available in other TSA offices and/or locations (i.e., temporary duty assignments or details) and TSA is able to send employees to those locations and/or offices to work.
 - (2) Before or during the furlough, employees must be allowed to request the use of an appropriate form(s) of accrued paid leave for all or part of the period rather than be furloughed, provided the reason for the absence supports the type of leave requested AND the circumstances of the furlough will allow this option (voluntary use of paid leave might be approved in a *lack of work* situation, but the use of paid leave would not be an option in a *lack of funds* situation since use of paid leave involves an agency expenditure of funds).
 - (3) The use of leave must be in accordance with established policies and procedures and appropriate to the furlough circumstances. For example: Employees must actually be sick to use sick leave; they must be performing military duty to use military leave.
- E. Appeal Rights: Non TSO employees may appeal the application of furlough procedures in their specific case to the Merit Systems Protection Board if they believe the procedures were incorrectly applied but may not appeal management's decision to use furlough procedures, the

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reason for doing so, timing of actions, or failure to use other options in place of furlough. Appeals related to furloughs must be filed directly with the MSPB. Furlough notices will contain specific appeal filing information. TSOs may appeal a furlough action to the Disciplinary Review Board in accordance with the process outlined in [TSA MD 1100.77-1, *Disciplinary Review Board*](#). TSOs may appeal the application of furlough procedures in their specific case if they believe the procedures were incorrectly applied. TSA will not review an appeal that is based solely on management's decision to apply furlough procedures, the reason for doing so, timing of actions, or failure to use other options instead of furlough.

F. Effect on Employee Benefits:

- (1) Employees who are furloughed may qualify for unemployment compensation and/or related services depending on the eligibility requirements in their local jurisdiction. Servicing Human Resources specialists should advise employees that the use of paid leave or other forms of unpaid leave (such as LWOP, which is requested by an employee) may adversely affect their eligibility for unemployment benefits.
- (2) Human Resources specialists should refer employees who are actually or potentially affected by a furlough to the sources of information referenced in the sample letters included in the [TSA Handbook to MD 1100.63-2, *Furlough \(Agency Placement of Employees in Nonpay, Nonduty Status\)*](#).
- (3) Employees who have more specific questions about their individual situation with regard to benefits should contact the TSA service provider for human capital services.

G. Additional Guidance on Furloughs: See the [TSA Handbook to MD 1100.63-2, *Furlough \(Agency Placement of Employees in Nonpay, Nonduty Status\)*](#).

8. EFFECTIVE DATE AND IMPLEMENTATION: This directive is effective on the approval date indicated below.

APPROVAL

Signed

5/15/2009

Richard A. Whitford
Assistant Administrator for Human Capital

Date

Distribution: Assistant Secretary, Deputy Assistant Secretary, Assistant Administrators, Deputy Assistant Administrators, Office Directors, Area Directors, Federal Security Directors, Special Agents in Charge, Administrative Officers, and TSA-Affiliated HR Specialists

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